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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 12198/2009

Date of decision: 7th October, 2009

MUNICIPAL CORPORATION OF DELHI Petitioner
Through Mr. Sanjeev Sabharwal, Advocate.

versus

CENTRAL INFORMATION COMMISSION AND ANR Respondents
Through Nemo.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in the Digest ?

ORDER

1. The information seeker had moved an application dated 18th August, 2008 seeking information on six points. By an unsigned order dated 24th September, 2008 the following information as per the details given below was provided:-

Sl.	Information Sought	PIO's reply
1.	Whether land sites were acquired in Raja Garden for providing lacking civic facilities in the colony? If so, When? And how much area was acquired?	The land site in Raja Garden for providing lacking civic facilities are not acquired by the office of EE(M)-I/WZ.

2.	Whether LAC/DC (West) land completed the process of taking over/handling over? If so, when and how much?	Does not pertain to this office.
3.	Whether any CWPs were ever filed challenging the subject award? If so, details thereof with consequential action taken thereon by MCD/WZ authorities.	The office has not filed any CWP and further action regarding CWP may be taken by Land owning agency.
4.	Whether any report was ever sent to the Hon'ble Lt. Governor in response to his directives of 9.9.1997 (ref. No. SS/KB/97/14026-32 dated September 10, 1997)? If so, a copy thereof.	Since matter does not pertain to the EE (M)-I/WZ according the report was not sent.
5.	Whether any action was taken on directives of Hon'ble Chief Minister of Delhi vide letter to MCD on a) 20.8.2002 Ref. No. CMO/PGC/02/646 (Hari Om Gupta, OSD/CM) and b) 23.2.2007 Ref. No. CMO/PGC/07/90957 (Varun Kapoor, Dy. Secy. GC)? If so, copy of each ATR on the afore mentioned two communications.	As above.
6.	Whether a Grievances redressal mechanism has been established for dealing with grievances lodged on MCD Computer?	The matter does not pertain to this division.

2. A bare perusal of the PIOs reply and information provided shows that it was incomplete. There was non-compliance of Section 6(3) of the Right to Information Act, 2005, which provides for transfer of applications in case the information is held by another public authority or closely

connected with another public authority.

3. The Central Information Commission noticed these facts in its order dated 11th June, 2009 and the following observations and decision were made:-

"The PIO states that the information relates to Horticulture Department and on 15/12/2008 EE-(M)-I/WZ had sent the RTI application to SE-I(West). The PIO states that the matter pertains to Horticulture and for the past six month MCD is trying to understand who should provide the information. This shows an extremely inefficient way of working and it is obvious that officers do not know who has what information. The Commission directs Mr. Janak Diggal, Additional Commissioner (Education) to fix the responsibility for the delay and inform the Commission of which officers are responsible for the delay. He will also ensure that the information is supplied to the appellant before 25 June 2009.

The Additional Commissioner will sent this report giving the names of the officers responsible to the Commission before 30 June 2009.

Decision:

The appeal is allowed.

The Additional Commissioner will ensure that the information is provided to the appellant before 25 June 2009.

He will also submit a report fixing responsibility for the delay in providing information in this matter to the Commission before 30 June 2009.

This decision is announced in open chamber.

Notice of this decision be given free of cost to the parties."

4. During the course of hearing today, learned counsel for the petitioner has drawn my attention to letter dated 12th December, 2008, which was written to the Horticulture Department asking them to furnish the required information. This letter was written after the information seeker had already filed a first appeal before the appellate authority and long after the expiry of the statutory period of thirty days as per Section 7 of the Right to Information Act, 2005. Even thereafter, no steps were taken to collect the relevant information and furnish the same. In the report dated 29th June, 2009, the Additional Commissioner has observed as under:-

“ Perusal of the order of DC/WZ, the First Appellate Authority, dated 26/11/08, does not indicate any direction to the Dy. Director (Horticulture). The Appellate Authority has clearly directed S.E.-I, PIO, to provide the information as asked for by the applicant by 31/12/08. Therefore the report of the Ex. Engineer (M)-I/WZ does not appear to be factually correct. Even assuming that there was any such direction the PIO i.e. S.E.-I should have immediately transferred this petition to the Dy. Director (Hort.) for providing necessary information. The record nowhere indicates that this petition was ever sent to Dy. Dir. (Hort.) or was brought to his notice.

From the above it is clear that the S.E.-I, i.e. the PIO and the Ex. Engineer (M)-I/WZ are responsible for keeping the matter pending with them as a result of which there was delay in providing information to the petitioner. As per the information provided by DC/WZ, Shri Naveen Verma was the S.E.-I w.e.f. 23/06/05 to 15/01/09, Shri V.K. Bansal is the S.E.-I w.e.f.

16/01/09 to till date and Shri Ajay Gautam is the Ex. Engineer (M)-I during the relevant period.”

5. After examining the report submitted by the Additional Commissioner, by the impugned order dated 25th August, 2009 the Information Commissioner has come to the conclusion that Mr. Naveen Verma is guilty of failure to furnish information within a period of thirty two days and accordingly penalty of Rs.8,000/- has been imposed.

The writ petition has no merit and is dismissed.

SANJIV KHANNA, J.

OCTOBER 07, 2009
VKR